

GETTING

实务谈判丛书

Negotiating
Agreement
Without
Giving In



YES

——无需让步的说服艺术

Roger Fisher
William Ury (美) 著
Bruce Patton

外语教学与研究出版社
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京权图字: 01-2002-3819

GETTING TO YES: Negotiating Agreement Without Giving In, Revised Edition 1981, 1991 Copyright © by Roger Fisher, William Ury, and Bruce Patton

Published by arrangement with Houghton Mifflin Company

Simplified Chinese translation copyright © 2005

By Foreign Language Teaching and Research Press

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图书在版编目(CIP)数据

寸土必争 = Getting To Yes / (美)费希尔(Fisher, R.), (美)尤里(Ury, W), (美)巴顿(Patton, B.)著; 王燕, 罗昕译. — 北京: 外语教学与研究出版社, 2002

(实务谈判丛书)

ISBN 7-5600-3184-6

I. 寸… II. ①费… ②尤… ③巴… ④王… ⑤罗… III. 英语—对照读物, 谈判学—英、汉 IV. H319.4 C

中国版本图书馆 CIP 数据核字 (2002) 第 098309 号

出 版 人: 李朋义

责任编辑: 段晓捷

封面设计: 潘振宇

出版发行: 外语教学与研究出版社

社 址: 北京市西三环北路 19 号 (100089)

网 址: <http://www.fltrp.com>

印 刷: 北京市鑫霸印务有限公司

开 本: 850 × 1168 1/32

印 张: 10.5

版 次: 2005 年 11 月第 1 版 2005 年 11 月第 1 次印刷

书 号: ISBN 7-5600-3184-6

定 价: 13.90 元

* * *

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前言

无论你愿意与否，你都是一名谈判者。谈判是生活中无法避免的现实。你要和老板商量提薪，要与陌生人商定买房的价钱；两个律师解决一起交通事故引出的诉讼；几家石油公司计划联合勘探近海石油；市政府官员与工会领袖会谈以避免公交司机罢工；当年美国国务卿和苏联外长试图就限制核武器达成协议。以上这些都是谈判。

每个人每天都要与别人进行谈判。就像莫里哀笔下一辈子追求谈吐高雅的汝尔丹先生那样，我们有时在不知不觉中与别人谈判。比如你和爱人商量去哪里吃饭，或者与孩子商定他们何时熄灯睡觉。谈判是从别人那里寻求自己所需的一个基本途径，是与谈判对方存在相同和不同利益时寻求解决方案的相互交流。

冲突日益增多，需要谈判的场合也越来越多。每个人都希望自己的事情由自己来决定，人们越来越不愿意听别人发号施令。由于人与人之间的不同，我们需要用谈判来消除分歧。不论是在商界、政界还是家庭中，人们更多的是通过谈判来解决问题、作出决定。即使是打官司，人们也经常在审判前庭外和解。

虽然谈判每天都在发生，但要谈出好结果却不容易。人们对通常的谈判技巧不是感到不满意，就是厌烦透顶，或者敬而远之——甚至三者皆有。

人们发现自己处在两难之中时，有温和与强硬两种谈判方法。温和者总是避免个人之间的摩擦冲突，为了达到共识，他往往很快作出让步。他希望有个愉快的解决方案，但却常常发现自己被别人利用而不得不咽下苦果。强硬者则认为谈判是一场意志的较量，谁采取的立场更极端，谁能硬撑到最后，谁就能赢。他当然想赢，可结果往往是硬碰硬，不但弄得自己筋疲力尽、黔驴技穷，而且也伤害了自己与对方建立起的联系。其他一些谈判技巧都介于两者之间，无非是要在既有所得而又不伤和气之间寻找平衡。

还有第三种谈判方法，它既不温和也不强硬，但却刚柔相济。由“哈佛大学谈判项目”研究出来的这种“原则谈判方式”是根据事情本身的是非曲直寻求解决方案，而不是进行一场各执己见的讨价还价。这种谈判方式建

议双方尽可能实现“双赢”。双方利益发生冲突时，必须让谈判结果基于某些公平的标准，而不是以某一方的意志为转移。原则谈判的原理是在道理、原则上强硬，对人则采取温和的态度。它不需要耍花招，不需要装腔作势。原则谈判让你得到想要的东西而又不失风度，它让你公平有理的同时又能保护自己不被对方利用。

本书就是介绍有关原则谈判的方法。第一章讲述采用就双方立场讨价还价的标准谈判方式带来的问题，接下来的四章介绍了有关原则谈判方法的四条原理，最后三章则回答有关原则谈判方式最常见的一些问题：如果对方实力强于自己怎么办？如果对方不配合该怎么办？如果对方使用卑鄙手段又该怎么办？

当年美国外交官同苏联进行军控谈判时可以采用原则谈判方式；华尔街律师代表“财富 500 强”大公司进行反垄断诉讼时也可以采用它，甚至夫妻之间商量到哪儿度假或离婚时如何分割财产等问题都可以采用这种方法。任何人都可以使用这种谈判方法。

谈判的形式各不相同，但基本要素不变。无论要解决一个还是多个问题，一方还是多方参与谈判，无论是有规定的程序，如集体谈判，还是随机应变，比如与劫机者谈判，原则谈判都完全适用。不论对手有无经验、是否友善，它都能发挥作用。原则谈判是一种通用的策略，它与其他所有方法都不同，如果谈判对方也掌握这种方法，那么谈判不会因此更加艰难，而是变得更加容易。如果他们也读了这本书，那就再好不过了。

Introduction

Like it or not, you are a negotiator. Negotiation is a fact of life. You discuss a raise with your boss. You try to agree with a stranger on a price for his house. Two lawyers try to settle a lawsuit arising from a car accident. A group of oil companies plan a joint venture exploring for offshore oil. A city official meets with union leaders to avert a transit strike. The United States Secretary of State sits down with his Soviet counterpart to seek an agreement limiting nuclear arms. All these are negotiations.

Everyone negotiates something every day. Like Molière's Monsieur Jourdain, who was delighted to learn that he had been speaking prose all his life, people negotiate even when they don't think of themselves as doing so. You negotiate with your spouse about where to go for dinner and with your child about when the lights go out. Negotiation is a basic means of getting what you want from others. It is back-and-forth communication designed to reach an agreement when you and the other side have some interests that are shared and others that are opposed.

More and more occasions require negotiation; conflict is a growth industry. Everyone wants to participate in decisions that affect them; fewer and fewer people will accept decisions dictated by someone else. People differ, and they use negotiation to handle their differences. Whether in business, government, or the family, people reach most decisions through negotiation. Even when they go to court, they almost always negotiate a settlement before trial.

Although negotiation takes place every day, it is not easy to do well. Standard strategies for negotiation often leave people dissatisfied, worn out, or alienated—and frequently all three.

People find themselves in a dilemma. They see two ways to negotiate: soft or hard. The soft negotiator wants to avoid personal conflict and so makes concessions readily in order to reach agreement. He wants an amicable resolution; yet he often ends up exploited and feeling bitter. The hard negotiator

sees any situation as a contest of wills in which the side that takes the more extreme positions and holds out longer fares better. He wants to win; yet he often ends up producing an equally hard response which exhausts him and his resources and harms his relationship with the other side. Other standard negotiating strategies fall between hard and soft, but each involves an attempted trade-off between getting what you want and getting along with people.

There is a third way to negotiate, a way neither hard nor soft, but rather both hard *and* soft. The method of *principled negotiation* developed at the Harvard Negotiation Project is to decide issues on their merits rather than through a haggling process focused on what each side says it will and won't do. It suggests that you look for mutual gains whenever possible, and that where your interests conflict, you should insist that the result be based on some fair standards independent of the will of either side. The method of principled negotiation is hard on the merits, soft on the people. It employs no tricks and no posturing. Principled negotiation shows you how to obtain what you are entitled to and still be decent. It enables you to be fair while protecting you against those who would take advantage of your fairness.

This book is about the method of principled negotiation. The first chapter describes problems that arise in using the standard strategies of positional bargaining. The next four chapters lay out the four principles of the method. The last three chapters answer the questions most commonly asked about the method: What if the other side is more powerful? What if they will not play along? And what if they use dirty tricks?

Principled negotiation can be used by United States diplomats in arms control talks with the Soviet Union, by Wall Street lawyers representing Fortune 500 companies in antitrust cases, and by couples in deciding everything from where to go for vacation to how to divide their property if they get divorced. Anyone can use this method.

Every negotiation is different, but the basic elements do not change. Principled negotiation can be used whether there is one issue or several; two parties or many; whether there is a prescribed ritual, as in collective bargaining, or an impromptu free-for-all, as in talking with hijackers. The method

applies whether the other side is more experienced or less, a hard bargainer or a friendly one. Principled negotiation is an all-purpose strategy. Unlike almost all other strategies, if the other side learns this one, it does not become more difficult to use; it becomes easier. If they read this book, all the better.

Praise for
Getting to
YES

"*Getting to YES* has an unrivaled place in the literature of dispute resolution. No other book in the field comes close to its impact on the way practitioners, teachers, researchers, and the public approach negotiation."

—National Institute for Dispute Resolution *Forum*

"*Getting to YES* is a highly readable and practical primer on the fundamentals of negotiation. All of us, as negotiators dealing with personal, community, and business problems, need to improve our skills in conflict resolution and agreement making. This concise volume is the best place to begin."

—John T. Dunlop

"This splendid book will help turn adversarial battling into hardheaded problem solving."

—Averell Harriman

"*Getting to YES* is a highly readable, uncomplicated guide to resolving conflicts of every imaginable dimension. It teaches you how to win without compromising friendships. I wish I had written it!"

—Ann Landers

"*Getting to YES* is powerful, incisive, persuasive. Not a bag of tricks but an overall approach. Perhaps the most useful book you will ever read."

—Elliot Richardson

"Simple but powerful ideas that have already made a contribution at the international level are here made available to all. Excellent advice on how to approach a negotiating problem."

—Cyrus Vance

PENGUIN BOOKS

Getting to YES

The authors of this book have been working together since 1977.

Roger Fisher teaches negotiation at Harvard Law School, where he is Williston Professor of Law *Emeritus* and director of the Harvard Negotiation Project. Raised in Illinois, he served in World War II with the U. S. Army Air Force, in Paris with the Marshall Plan, and in Washington, D. C., with the Department of Justice. He has also practiced law in Washington and served as a consultant to the Department of Defense. He was the originator and executive editor of the award-winning television series *The Advocates*. He consults widely with governments, corporations, and individuals through Conflict Management, Inc., and the Conflict Management Group of Cambridge, Massachusetts.

William Ury co-founded Harvard's Program on Negotiation, where he directs the Negotiation Network. He has served as a mediator and advisor in negotiations and now serves as an advisor to the International Negotiation Network at the Carter Center of Emory University. Formerly on the faculty of Harvard Business School, Ury has taught negotiation to corporate executives, labor leaders, and government officials around the world. He has also served as a consultant to the White House on establishing nuclear risk reduction centers in Washington and Moscow. Ury's most recent book is *Getting Past No: Negotiating with Difficult People*. Raised in California and Switzerland, he received his undergraduate degree from Yale and his doctorate in anthropology from Harvard.

Bruce Patton, deputy director of the Harvard Negotiation Project, is the Thaddeus R. Beal Lecturer on Law at Harvard Law School. A lawyer, he teaches negotiation to diplomats and corporate executives around the world and works as a negotiation consultant and mediator in international, corporate, labor-management, and family settings. Associated with the Conflict Management organizations, which he cofounded in 1984, he has both graduate and undergraduate degrees from Harvard.

To our fathers,
WALTER T. FISHER AND MELVIN C. URY,
who by example taught us
the power of principle.

Preface to the Second Edition

During the last ten years negotiation as a field for academic and professional concern has grown dramatically. New theoretical works have been published, case studies have been produced, and empirical research has been undertaken. Ten years ago very few professional schools offered courses on negotiation; now they are all but universal. Universities are beginning to appoint faculty who specialize in negotiation. Consulting firms now do the same in the corporate world.

Against this changing intellectual landscape, the ideas in *Getting to YES* have stood up well. They have gained considerable attention and acceptance from a broad audience and are frequently cited as starting points for other work. Happily, they remain persuasive to the authors as well. Most questions and comments have focused on areas in which the book has proven ambiguous, or where readers have wanted more specific advice. We have tried to address the most important of these topics in this revision.

Rather than tampering with the text (and asking readers who know it to search for changes), we have chosen to add new material in a separate section at the end of this second edition. The main text remains complete and unchanged from the original, except for updating the figures in examples to keep pace with inflation and rephrasing in a few places to clarify meaning and eliminate sexist language. We hope that our answers to "Ten Questions People Ask About *Getting to YES*" prove helpful and meet some of the interests readers have expressed.

We address questions about (1) the meaning and limits of "principled" negotiation (it represents practical, not moral, advice); (2) dealing with someone who seems to be irrational or who has a different value system, outlook, or negotiating style; (3) questions about tactics, such as where to meet, who should make the first offer, and how to move from inventing options to making commitments; and (4) the role of power in negotiation.

More extensive treatment of some topics will have to await other books. Readers interested in more detail about handling "people issues" in negotiation in ways that tend to establish an effective working relationship might enjoy *Getting Together: Building Relationships as We Negotiate*, by Roger Fisher and Scott Brown, also available from Penguin Books. If dealing with difficult people and situations is more your concern, look for *Getting Past No: Negotiating with Difficult People*, by William Ury, published by Bantam Books. No doubt other books will follow. There is certainly much more to say about power, multilateral negotiations, cross-cultural transactions, personal styles, and many other topics.

Once again we thank Marty Linsky, this time for taking a careful eye and a sharp pencil to our new material. Our special thanks to Doug Stone for his discerning critique, editing, and occasional rewriting of successive drafts of that material. He has an uncanny knack for catching us in an unclear thought or paragraph.

Roger Fisher
William Ury
Bruce Patton

For more than a dozen years, Bruce Patton has worked with us in formulating and explaining all of the ideas in this book. This past year he has pulled the laboring oar in converting our joint thinking into an agreed text. It is a pleasure to welcome Bruce, editor of the first edition, as a full co-author of this second edition.

Roger Fisher
William Ury

Acknowledgments

This book began as a question: What is the best way for people to deal with their differences? For example, what is the best advice one could give a husband and wife getting divorced who want to know how to reach a fair and mutually satisfactory agreement without ending up in a bitter fight? Perhaps more difficult, what advice would you give *one* of them who wanted to do the same thing? Every day, families, neighbors, couples, employees, bosses, businesses, consumers, salesmen, lawyers, and nations face this same dilemma of how to get to yes without going to war. Drawing on our respective backgrounds in international law and anthropology and an extensive collaboration over the years with practitioners, colleagues, and students, we have evolved a practical method for negotiating agreement amicably without giving in.

We have tried out ideas on lawyers, businessmen, government officials, judges, prison wardens, diplomats, insurance representatives, military officers, coal miners, and oil executives. We gratefully acknowledge those who responded with criticism and with suggestions distilled from their experience. We benefited immensely.

In truth, so many people have contributed so extensively to our learning over the years that it is no longer possible to say precisely to whom we are indebted for which ideas in what form. Those who contributed the most understand that footnotes were omitted not because we think every idea original, but rather to keep the text readable when we owe so much to so many.

We could not fail to mention, however, our debt to Howard Raiffa. His kind but forthright criticism has repeatedly improved the approach, and his notions on seeking joint gains by exploiting differences and using imaginative procedures for settling difficult issues have inspired sections on these subjects. Louis Sohn, deviser and negotiator extraordinaire, was always encouraging, always creative, always looking forward. Among our many debts to him, we owe our introduction to the idea of using a single negotiating text, which we

call the One-Text Procedure. And we would like to thank Michael Doyle and David Straus for their creative ideas on running brainstorming sessions.

Good anecdotes and examples are hard to find. We are greatly indebted to Jim Sebenius for his accounts of the Law of the Sea Conference (as well as for his thoughtful criticism of the method), to Tom Griffith for an account of his negotiation with an insurance adjuster, and to Mary Parker Follett for the story of two men quarreling in a library.

We want especially to thank all those who read this book in various drafts and gave us the benefit of their criticism, including our students in the January Negotiation Workshops of 1980 and 1981 at Harvard Law School, and Frank Sander, John Cooper, and William Lincoln, who taught those workshops with us. In particular, we want to thank those members of Harvard's Negotiation Seminar whom we have not already mentioned; they listened to us patiently these last two years and offered many helpful suggestions: John Dunlop, James Healy, David Kuechle, Thomas Schelling, and Lawrence Susskind. To all of our friends and associates we owe more than we can say, but the final responsibility for the content of this book lies with the authors; if the result is not yet perfect, it is not for lack of our colleagues' efforts.

Without family and friends, writing would be intolerable. For constructive criticism and moral support we thank Caroline Fisher, David Lax, Frances Turnbull, and Janice Ury. Without Francis Fisher this book would never have been written. He had the felicity of introducing the two of us some four years ago.

Finer secretarial help we could not have had. Thanks to Deborah Reimel for her unfailing competence, moral support, and firm but gracious reminders, and to Denise Trybula, who never wavered in her diligence and cheerfulness. And special thanks to the people at Word Processing, led by Cynthia Smith, who met the test of an endless series of drafts and near impossible deadlines.

Then there are our editors. By reorganizing and cutting this book in half, Marty Linsky made it far more readable. To spare our readers, he had the good sense not to spare our feelings. Thanks also to Peter Kinder, June Kinoshita, and Bob Ross. June struggled to make the language less sexist.

Where we have not succeeded, we apologize to those who may be offended. We also want to thank Andrea Williams, our adviser; Julian Bach, our agent; and Dick McAdoo and his associates at Houghton Mifflin, who made the production of this book both possible and pleasurable.

Finally, we want to thank Bruce Patton, our friend and colleague, editor and mediator. No one has contributed more to this book. From the very beginning he helped brainstorm and organize the syllogism of the book. He has reorganized almost every chapter and edited every word. If books were movies, this would be known as a Patton Production.

And we acknowledge with thanks the work of Dr. Teng Su Ching, Assistant Director, Graduate School of Public Policy, National University of Singapore; Professor Locknie Hsu, Adjunct Faculty, Public Policy Program, National University of Singapore; and Wang Jian Jiao, student, Graduate School of Public Policy, National University of Singapore in helping us reconcile the Chinese translation with the English text.

Roger Fisher
William Ury

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